

FOURTH DAY.

Senate Chamber,
Austin, Texas,
November 10, 1932.

The Senate met at 9 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Moore.	Williamson.
Neal.	Woodruff.
Oneal.	Woodul.

Absent—Excused.

Martin. Woodward.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Purl.

Committee Reports.

(See Appendix.)

Senator Excused.

On motion of Senator Stevenson, Senator Martin was excused for today and yesterday on account of important business.

On motion of Senator Oneal, Senator Woodward was excused for the day on account of important business.

Senate Bill No. 2.

The Chair laid before the Senate on its second reading the following bill:

By Senator Oneal:

S. B. No. 2, A bill to be entitled "An Act for the relief of water improvement districts and water control and improvement districts containing within their boundaries a city, or the greater part of a city, having, according to the last pre-

ceding United States census, a population of not less than forty thousand people, and empowering such districts without an election to refund outstanding bonded indebtedness including matured and unpaid interest coupons and accrued interest, and prescribing the manner in which and the terms and conditions upon which same may be refunded, and prescribing the duties and functions of the Attorney General and Comptroller of the State in connection with such refunding; and providing for the manner in which, and the terms and conditions upon which such districts may cancel all, or any part, of such unsold bonds heretofore authorized by such districts; and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Oneal the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 2 was put on its third reading and final passage, by the following vote:

Yeas—26.

Beck.	Parr.
Berkeley.	Patton.
Cousins.	Poage.
Cunningham.	Pollard.
DeBerry.	Purl.
Gainer.	Rawlings.
Greer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Moore.	Williamson.
Neal.	Woodruff.
Oneal.	Woodul.

Absent.

Hopkins. Woodward.
Parrish.

Absent—Excused.

Martin.

Read thrd time and finally passed by the following vote:

Yeas—23.

Beck.	Greer.
Berkeley.	Hardin.
Cousins.	Hornsby.
Cunningham.	Moore.
Gainer.	Neal.

Oneal.	Small.
Parr.	Stevenson.
Parrish.	Thomason.
Patton.	Williamson.
Pollard.	Woodruff.
Purl.	Woodul.
Russek.	

Nays—1.

Holbrook.

Present—Not Voting.

DeBerry.	Poage.
----------	--------

Absent.

Hopkins.	Woodward.
Rawlings.	

Absent—Excused.

Martin.

Senate Bill No. 1.

The Chair laid before the Senate on its second reading the following bill:

By Senators Pollard and Woodul:
S. B. No. 1, A bill to be entitled
"An Act regulating crude petroleum oil and natural gas relative to the production, transportation and storage; amending Section 1 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, changing the definitions of waste and prohibiting waste as defined and eliminating the restrictions upon the power of the commission therein contained, and eliminating the last paragraph of said Section; providing that the Railroad Commission of Texas cannot regulate as waste any process of refining crude petroleum oil; amending Section 5 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, by adding to the authority and duty of the Railroad Commission that of inquiry into the market demand for crude petroleum oil and natural gas to determine whether waste exists or is imminent, and to require sworn statements as to the market demand for such oil and gas, and also providing for methods of securing information as to production, storage and transportation; amending Section 7 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, by eliminating certain provisions there-

from and changing other so that as amended said Section provides for notice and hearings by the Railroad Commission of Texas, authorizing such Commission to make rules, regulations or orders to correct, prevent or lessen waste, provides for the distribution of the allowable production of crude petroleum oil and natural gas as between properties and pools, requires compliance therewith, and provides for revocation, amendment, renewal and extension of rules, regulations or orders upon certain conditions; amending Section 15 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, requiring the said commission to make and enforce rules, regulations or orders, and do all things necessary for the conservation of crude petroleum oil or natural gas and the prevention of waste, and specifying certain purposes; amending Section 8 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, providing for judicial review of laws relating to conservation of crude petroleum oil or natural gas, and rules regulations, or orders issued thereunder fixing the jurisdiction and providing procedure therein, fixing the burden of proof and establishing prima facie validity that if any part of this Act be held unconstitutional the remaining portions shall nevertheless be valid; etc., and declaring an emergency."

The bill was read second time.

Senator Small sent up the following substitute:

Amend S. B. No. 1 by striking out all after enacting clause and substituting in lieu thereof the following:

Section 1. That Section 1 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, is hereby amended so that the same shall hereafter read as follows:

Sec. 1. Article 6014 of the Revised Civil Statutes of 1925, as amended by Chapter 313, Acts of the Regular Session of the Forty-first Legislature, is hereby amended so that the same shall hereafter read as follows:

Article 6014. The production, storage or transportation of crude petroleum oil or of natural gas in

such manner, in such amount, or under such conditions as to constitute waste is hereby declared to be unlawful and is prohibited. The term "waste" among other things shall specifically include:

(a) The operation of any oil well or wells with an inefficient gas-oil ratio, and the Commission is hereby given authority to fix and determine by order such ratio.

(b) The drowning with water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities.

(c) Underground waste or loss however caused and whether or not defined in other subdivisions hereof.

(d) Permitting any natural gas well to burn wastefully.

(e) The wasteful utilization of natural gas, provided, however, the utilization of gas lawfully permitted to be produced from a well producing both oil and gas, for manufacturing gasoline shall not be construed to be wasteful, and provided further that the utilization of natural gas authorized by the Commission under the provisions of Section 2 of Acts of the 42nd Legislature, First Called Session, Chap. 26, shall not be construed as wasteful.

(f) The creation of unnecessary fire hazards.

(g) Physical waste or loss incident to, or resulting from, so drilling, equipping, locating, spacing or operating well or wells as to reduce or tend to reduce the total ultimate recovery of crude petroleum oil or natural gas from any pool.

(h) Waste or loss incident to, or resulting from, the unnecessary, inefficient, excessive or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool; however, it is not the intent of this Act to require repressuring of an oil pool or that the separately owned properties in any pool be unitized under one management, control or ownership.

(i) Surface waste or surface loss, including unnecessary or excessive surface losses or destruction of crude petroleum oil or natural gas without beneficial use.

(j) The escape into the open air, from a well producing both oil and gas, of natural gas in excess of the amount which is necessary in the

efficient drilling or operation of the well.

(k) The production of crude petroleum oil in excess of transportation or market facilities or reasonable market demand. The Commission is authorized to determine when such excess production exists or is imminent, and to ascertain the reasonable market demand.

The Commission is expressly authorized to consider any or all of the above definitions in making rules, regulations or orders to prevent waste of oil or gas.

Sec. 2. The Railroad Commission of Texas shall have no authority to make any rule, regulation or order or in any wise determine or hold, that any mode, manner or process of refining crude petroleum oil constitutes waste.

Nothing in this Act shall be construed as granting to the Railroad Commission of Texas any power or authority to restrict, or in any manner limit, the drilling of wells for the purpose of exploring for crude petroleum oil or natural gas or both in territory not known to produce either such oil or gas.

The Railroad Commission of Texas shall not restrict the production of crude petroleum oil from any new field brought into production by such exploration until such total production therefrom aggregates 10,000 barrels of crude petroleum oil per day, unless such restriction results from the enforcement of rules, regulations or orders dealing with the method or manner of producing, storing or transporting crude petroleum oil therefrom to prevent physical waste occurring in such new field; provided, however, the production of any new field shall not be limited by the application of Subdivision (k) of Section 1 hereof until the production of such new field is more than 10,000 barrels per day.

Nothing in Section 1 hereof shall be construed to authorize the limitation of production of marginal wells, as such marginal wells are now defined by statute, below the amount fixed by statute for such wells.

Sec. 3. Section 5 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, is hereby

amended so that the same shall hereafter read as follows:

Sec. 5. The Commission shall have power, and it shall be its duty, from time to time, to inquire into the production, storage or transportation of crude petroleum oil, and of natural gas, and the market demand therefor, all in order to determine whether or not waste exists or is imminent. The Commission shall have the right to require any party to make and file with the Commission sworn statements as to facts within the knowledge or possession of such party pertaining to the production, storage or transportation of crude petroleum oil or of natural gas, and to the market demand therefor, as often and for such periods as the Commission may specify, and may require any well or wells under the control of any party, whenever and as often, and for such periods, as the Commission may specify, to be inspected or gauged and the books and records of any party to be examined.

Sec. 4. Whenever the full production from wells producing gas only from any common source of supply of natural gas in this State is in excess of the reasonable market demand, the Railroad Commission shall inquire into the production and reasonable market demand therefor and shall determine the allowable production from such common source of supply, which shall be the reasonable market demand which can be produced without waste, and the Commission shall allocate, distribute or apportion the allowable production from such common source of supply among the various producers on a reasonable basis, and shall limit the production of each producer to the amount allocated or apportioned to such producer.

Sec. 5. Section 7 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, is hereby amended so that the same shall hereafter read as follows:

Sec. 7. Upon the initiative of the Commission, or upon the verified complaint of any party producing, storing or transporting crude petroleum oil or natural gas in this State that waste of crude petroleum oil or natural gas is taking place

in this State, or is reasonably imminent, the Commission may hold a hearing, at such time and place as it may fix to determine whether or not waste is taking place, or is reasonably imminent, and what, if any, rule, regulation or order should be made or what, if any, other action should be taken to correct, prevent or lessen such waste. Notice of such hearing shall be given by the Commission, as provided by law. At said hearing all parties interested shall be entitled to be heard and introduce evidence and to require the attendance of witnesses and the production of evidence may be required as provided by law. If upon the hearing the Commission shall find that waste is taking place, or is reasonably imminent, the Commission shall make such rule, regulation or order as in its judgment is reasonably required to correct, prevent or lessen such waste.

In the event any such rule, regulation or order which the Commission may adopt provides for the limitation or fixing of the production of crude petroleum oil, or of natural gas from wells producing gas only, in any common pool or portion thereof, the Commission shall distribute, probate, or otherwise apportion or allocate, the allowable production among the various producers on a reasonable basis.

From and after the promulgation of any rule, regulation or order of the Commission it shall be the duty of each party affected thereby to comply with the same. The Commission may, without notice, revoke any such rule, regulation or order; and it may, without notice, amend the same, provided the subject matter of the amendment was considered at the hearing made the basis for such rule, regulation or order. The renewal or extension of any rule, regulation or order shall be based upon a hearing after proper notice.

Sec. 6. In order to prevent unreasonable discrimination in favor of one common source of supply of crude petroleum oil as against another, and upon written complaint and proof of such discrimination, the Railroad Commission of Texas is authorized to allocate or appor-

tion the allowable production among the various common sources of supply of crude petroleum oil in the State; provided, however, that in allocating or ascertaining the reasonable market demand for the whole State the reasonable market demand of one common source of supply shall not be discriminated against in favor of any other common source of supply; and provided further that the Railroad Commission of Texas shall ascertain the reasonable market demand of each such respective common source of supply as the basis for determining the allotments to be assigned each respective common source of supply, to the end that such discrimination may be prevented.

Sec. 7. Section 15 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, is hereby amended so that the same shall hereafter read as follows:

Sec. 15. Article 6029 of the Revised Civil Statutes of 1925 is hereby amended so that it shall hereafter read as follows:

Article 6029. The Commission shall make and enforce rules, regulations or orders for the conservation of crude petroleum oil and natural gas and to prevent the waste thereof, including rules, regulations or orders for the following purposes:

(1) To prevent the waste, as hereinbefore defined, of crude petroleum oil and natural gas in drilling and producing operations and in the storage, piping and distribution thereof.

(2) To require dry or abandoned wells to be plugged in such way as to confine crude petroleum oil, natural gas, and water in the strata in which they are found and to prevent them from escaping into other strata.

(3) For the drilling of wells and preserving a record thereof.

(4) To require wells to be drilled and operated in such manner as to prevent injury to adjoining property.

(5) To prevent crude petroleum oil and natural gas and water from escaping from the strata in which they are found into other strata.

(6) To establish rules and regulations for shooting wells and for

separating crude petroleum oil from natural gas.

(7) To require records to be kept and reports made by oil and gas drillers, operators, and carriers of crude petroleum oil or natural gas and by its inspectors.

(8) It shall do all things necessary for the conservation of crude petroleum oil and natural gas and to prevent the waste thereof, and shall make and enforce such rules, regulations or orders as may be necessary to that end.

Sec. 8. Section 8 of Chapter 26 of Acts of the Forty-second Legislature, First Called Session, is hereby amended so that the same shall hereafter read as follows:

Sec. 8. Any interested party affected by the conservation laws of this State relating to crude petroleum oil or natural gas, and the waste thereof, including this Act, or by any rule, regulation or order made or promulgated by the Commission thereunder, and who may be dissatisfied therewith, shall have the right to file a suit in a court of competent jurisdiction in Travis County, Texas, and not elsewhere, against the Commission, as defendant, to test the validity of said laws, rules, regulations or orders. Such suit shall be advanced for trial and be determined as expeditiously as possible and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court. In all trials under this section, the burden of proof shall be upon the party complaining of such laws, rule, regulation or order and such laws, rule, regulation or order so complained of shall be deemed prima facie valid until otherwise shown.

Sec. 9. If any section, subdivision, paragraph, sentence, clause or word of this act be held to be unconstitutional, the remaining portions of same shall, nevertheless, be valid; and it is declared that such remaining portions would have been included in this Act though the unconstitutional portions had been omitted.

Sec. 10. This Act shall be cumulative of all laws of the State of Texas, not inconsistent herewith and not hereby expressly repealed or amended, and the words "crude pe-

troleum oil" and "natural gas" as used herein are not to be construed as referring to different substances than those referred to herein and in existing statutes by the use of the usual words "oil" and "gas." The word "Commission" shall mean the Railroad Commission of Texas. The words "pool," "common pool," "field," and "common source of supply" shall mean a common reservoir.

Sec. 11. Section 9, Chapter 26 of the Acts of the Forty-second Legislature, First Called Session, and also Section 11j, Chapter 28 of Acts of the Forty-second Legislature, First Called Session, and all other laws and parts of laws in conflict herewith are hereby repealed.

Sec. 12. Nothing in this Act shall be construed to repeal Chapter Thirty-six of Acts of the Forty-first Legislature, Fifth Called Session, known as the Common Purchaser Bill, and amendments thereto, except as specifically repealed hereby or inconsistent herewith; and this Act shall not be construed to repeal or modify S. B. No. 337, passed by the Forty-second Legislature, at its Regular Session, known as the Marginal Well Bill.

Sec. 13. This Act shall not amend, repeal, change, alter or affect in any manner the Anti-Trust laws of this State.

Sec. 14. The provisions of this Act shall end and terminate June 1st, 1935.

Sec. 15. The fact that the present laws are inadequate for the conservation of oil and gas, the prevention of waste, and the protection of the rights of the various owners of oil and gas lands creates an emergency and an imperative public necessity that the constitutional rule which requires bills to be read on three several days be suspended, and it is hereby suspended, and this Act shall take effect and be in force from and after its passage and it is so enacted.

POLLARD,
SMALL,
WOODUL.

The substitute was read.

Senator Purl sent up the following amendment to the substitute:
Amend Substitute Senate Bill No. 1 by striking out Section 13 and

inserting in lieu thereof the following:

Sec. 13. It is especially provided that nothing herein shall in any manner affect, alter, diminish, change or modify the anti-trust and/or monopoly statutes of this State, and that no provision of this Act shall in any manner directly or indirectly authorize a violation of such anti-trust and/or monopoly statutes, and in this connection it is hereby declared and especially provided by the Legislature of the State of Texas enacting this legislation that notwithstanding the provisions of Sections 10, 11 and 12, or any other sections of this Act, it is the legislative intent that no provision of this Act shall in any manner, affect, alter, diminish or amend any provision of the anti-trust and/or monopoly statutes of this State, or in any manner authorize a violation of such anti-trust and/or monopoly statutes; and it is further especially provided that if any provision of this Act shall be so construed by any court of this State as to in any manner affect, alter, diminish, or modify any provision of the anti-trust and/or monopoly statutes of this State, then in that event any such section, subsection, sentence or clause or any provision of this Act so construed as conflicting with said monopoly and/or anti-trust statutes, it is hereby declared null and void rather than the anti-trust and/or monopoly statutes of this State. The legislative intent herein expressed is to prevail and take precedence over the provisions of Sections 10, 11 and 12 or any other section or sections of this Act, regardless of any statement therein to the contrary.

PURL.

Read and adopted by the following vote:

Yeas—23.

Beck.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Hornsby.	Stevenson.
Moore.	Williamson.
Neal.	Woodruff.
Oneal.	Woodul.
Parr.	

Nays—3.

Holbrook. Small.
Hopkins. Absent.
Berkeley. Thomason.
Absent—Excused.
Martin. Woodward.

Senator Woodruff sent up the following amendment to the substitute:

Amend substitute for Senate Bill No. 1 by adding to Section No. 1, of Amendment No. 1, a new sub-section reading as follows, viz.:

In arriving at the market demand for crude petroleum oil at any given time the Commission shall take into consideration the average retail price to consumers of crude petroleum oil and its products, and in this connection said Commission shall find an increased market demand for oil in proportion to the percentage of increase in retail price or prices from and after the making by the Commission of any order restricting or tending to restrict the daily and/or periodical rate of production of crude petroleum oil in the State of Texas, or in any oil pool therein.

WOODRUFF.

The amendment was read.

Senator Hornsby sent up the following substitute for the amendment:

Amend Section 6 of substitute for Senate Bill No. 1 by adding thereto the following:

"It is further provided that in the administration of this Act the Railroad Commission of Texas shall, at all times, take into consideration and protect the rights and interests of the purchasing and consuming public of crude oil and all of its products, such as gasoline and lubricating oil."

HORNSBY.

The substitute was read and lost by the following vote:

Yeas—13.

Cunningham Parrish
Gainer. Purl
Greer. Rawlings.
Hardin. Russek.
Hornsby. Small.
Moore. Williamson.
Parr.

Nays—14.

Beck. Oneal.
Berkeley. Poage.
Cousins. Pollard.
DeBerry. Stevenson.
Holbrook. Thomason.
Hopkins. Woodruff.
Neal. Woodul.

Absent.

Martin. Woodward.

Absent—Excused.

Patton.

Senator Woodruff withdrew his original amendment and sent up the following amendment:

Amend Senate Bill No. 1 by adding to Section No. 1, or Amendment No. 1, a new sub-section reading as follows, viz.:

(1) In arriving at the market demand for crude petroleum oil at any given time the Railroad Commission shall take into consideration the average retail price, exclusive of tax, within this State to consumers of crude petroleum oil and its products, and in this connection after said Commissioners shall have made and entered any order restricting or tending to restrict the production of crude petroleum oil in this State to prevent waste in any form as herein defined, and the average price of crude petroleum oil and its products shall advance to consumers in this State, then said Commission shall immediately, and without further hearing or testimony, enter a new order raising the amount of oil permitted to be produced daily or periodically within this State in an amount that shall be in the proportion to the amount included in such prior order in a ratio equal to the increased or advanced price of crude petroleum oil and its products to consumers within this State over the price thereof existing at the time the original proration or restrictive order was promulgated by the Railroad Commission.

WOODRUFF.

Read and lost by the following vote:

Yeas—11.

Berkeley. Gainer.
Cunningham. Greer.
DeBerry. Hornsby.

Moore. Poage.
Parr. Purl.
Parrish.

Nays—16.

Beck. Pollard.
Cousins. Rawlings.
Hardin. Russek.
Holbrook. Small.
Hopkins. Stevenson.
Neal. Thomason.
Oneal. Williamson.
Patton. Woodul.

Absent—Excused.

Martin.

(Pair Recorded.)

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Reasons for Vote.

Mr. President:

In proposing the foregoing amendment and supporting its adoption, I am not unmindful of the fact that in fundamental principles of sound government, as I understand them, it is not desirable. I favored its adoption as a protection to the consumer from the resultant stimulation of prices because of the permissive authority in Sub-section K of Section One of the bill for the Railroad Commission to consider "Market Demand" as an element of waste. I am firmly convinced that, if the "Market Demand" feature of the bill is valid, the provisions of the amendment are also, and that the consumer is entitled to the same protection afforded in the bill to the producer.

WOODRUFF.

Message From the Governor.

Executive Office,
Austin, Texas, Nov. 9, 1932.
To the Senate of the Forty-second Legislature:

I submit herewith the following appointments for your confirmation. These have been made since the last special session.

Hon. L. W. Rogers of Travis County as Superintendent of Public Instruction, for the unexpired term of Hon. C. N. Shaver, resigned.

Hon. Myron Blalock of Marshall, Texas, as Chief Justice of the Court of Civil Appeals for the Sixth Su-

preme Judicial District of Texas, for the unexpired term of Chief Justice Sam P. Willson, deceased.

Hon. Renne Allred, Jr., of Rusk County, as Presiding Judge of the Special District Court of Rusk and Gregg Counties, which was created by Chapter 48 of the Acts of the 42nd Legislature at its Third Called Session.

Roy Johnson, of Austin, Texas, re-appointed a member of the State Board of Barber Examiners for the next ensuing statutory term.

Respectfully submitted,

R. S. STERLING,
Governor.

Read and referred to the Committee on Governor's Nominations.

Resolutions Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following resolutions:

H. C. R. No. 1.

H. C. R. No. 2.

Invitation.

Senator Hornsby sent up the following invitation:

Austin, Texas, Nov. 10, 1932.

Lieutenant Governor Edgar E. Witt and Members of the State Senate, Austin, Texas.

Gentlemen:

You are cordially invited and urged to participate in the annual Armistice Day parade and memorial service to be held in Austin, Texas, Friday, November 11, 1932, under the auspices of Travis Post Number Seventy-six, of the American Legion.

The purpose of this parade is to endeavor to observe in a fitting way the anniversary of the ending of the World War and at the same time pay tribute to those who made the supreme sacrifice in that conflict.

It is our desire to see every member of the Legislature ride in this parade, and we hope that those of you who have your cars here will ask some of your colleagues who left theirs at home to ride with you. Your section of the parade will form on West First Street, at the intersection of Congress Avenue, at 9:45 a. m. If there should be someone who will take part and who does not have transportation, please no-

tify A. W. Holt, Sergeant-at-Arms, and it will be arranged for.

Hoping that you will see fit to take part with us in these services, we are Very respectfully yours

JNO. W. HORNSBY,

Senator Twentieth District.

AMERICAN LEGION PARADE COMMITTEE,

By A. W. Holt, Chairman.

Senator Hornsby moved to accept the invitation. The motion prevailed.

Recess.

On motion of Senator Woodul, the Senate, at 12:01 o'clock p. m., recessed until 2 o'clock p. m.

After Recess.

The Senate met at 2 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

Call of the Senate.

Senator Woodul raised the point of order that no quorum was present. The roll call showed no quorum present.

On motion of Senator Small, a call of the Senate for the purpose of obtaining a quorum was ordered.

Senator Williamson moved a call of the Senate for the purpose of maintaining a quorum until 5 o'clock. The motion was seconded.

Senator Woodward moved as a substitute that a call of the Senate be ordered for the purpose of maintaining a quorum until 4 o'clock. The substitute motion failed to receive the proper seconding.

The original motion prevailed by the following vote:

Yeas—13.

Berkeley.	Pollard.
Hardin.	Rawlings.
Holbrook.	Small.
Hornsby.	Thomason.
Neal.	Williamson.
Oneal.	Woodul.
Poage.	

Nays—8.

Greer.	Purl.
Moore.	Russek.
Parr.	Stevenson.
Parrish.	Woodruff.

Absent.

Beck.	Hopkins.
Cunningham.	Cousins.
Gainer.	Patton.

Absent—Excused.

DeBerry.	Woodward.
Martin.	

By unanimous consent, Senator DeBerry was excused from the call on account of death in his family.

Senate Bill No. 1.

The question recurred upon the pending substitute for S. B. No. 1.

Senator Poage sent up the following amendment:

Amend Pollard, Small, Woodul substitute for Senate Bill No. 1, page 5, line 64, by adding the following:

(1) The Railroad Commission shall never have the power to restrict the production of any well to prevent any of the forms of waste defined in the foregoing sub-section, or to consider any such character of waste in fixing any rules, regulations or orders at any time when the average posted retail price per gallon of first grade white gasoline in the Capitol and three largest cities of this State, exclusive of all taxes, is in excess of the price per pound of spot middling cotton of 15/16 inches of length in the same cities.

POAGE.

Read and lost by the following vote:

Yeas—5.

Berkeley.	Parrish.
Moore.	Poage.
Parr.	

Nays—17.

Beck.	Patton.
Cousins.	Pollard.
Cunningham.	Purl.
Greer.	Rawlings.
Hardin.	Small.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Neal.	Williamson.
Oneal.	

Absent.

Gainer.	Russek.
Hopkins.	

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present), who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Woodul (present) who would vote nay, with Senator DeBerry (absent) who would vote yea.

Senator Woodul sent up the following amendment to the substitute:

Amend substitute to S. B. No. 1, page 8, line 42, by striking out the words "June 1st." and substituting in lieu thereof the words "September 1st."

WOODUL.

The amendment was read.

Senator Purl sent up the following substitute for the amendment:

Amend substitute for S. B. No. 1, by striking out Sec. 14.

PURL.

The substitute for the amendment was read and lost by the following vote:

Yeas—6.

Hornsby.	Purl.
Moore.	Small.
Neal.	Woodruff.

Nays—18.

Beck.	Parrish.
Berkeley.	Patton.
Cousins.	Pollard.
Cunningham.	Rawlings.
Greer.	Russek.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hopkins.	Williamson.
Oneal.	Woodul.

Absent.

Parr.

Absent—Excused.

DeBerry.	Woodward.
Martin.	

(Pair Recorded.)

Senator Poage (present) who would vote yea, with Senator Gainer (absent) who would vote nay.

Senator Woodruff sent up the following amendment to the amendment:

Amend substitute for S. B. No. 1,

amendment No. 1, by changing the words and figures "June 1st" in line 42, page 8, to read "March 1st."

WOODRUFF.

The amendment to the amendment was read.

Senator Greer sent up the following substitute for the original amendment:

Amend substitute to S. B. No. 1, by striking out the words and figures "June 1st, 1935" and insert in lieu thereof the words and figures "March 1st, 1933."

GREER.

The substitute amendment was read and lost by the following vote:

Yeas—8.

Berkeley.	Moore.
Cunningham.	Parr.
Greer.	Poage.
Hornsby.	Russek.

Nays—18.

Beck.	Pollard.
Cousins.	Purl.
Hardin.	Rawlings.
Holbrook.	Small.
Hopkins.	Stevenson.
Neal.	Thomason.
Oneal.	Williamson.
Parrish.	Woodruff.
Patton.	Woodul.

Absent.

Gainer.

Absent—Excused.

DeBerry.	Woodward.
Martin.	

The amendment to the amendment was lost.

The amendment was adopted by the following vote:

Yeas—18.

Beck.	Oneal.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Pollard.
Gainer.	Rawlings.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hopkins.	Williamson.
Neal.	Woodul.

Nays—8.

Greer.	Moore.
Hornsby.	Parr.

Poage.
Purl.

Russek.
Small.

Absent—Excused.

DeBerry.

Martin.

(Pair Recorded.)

Senator Woodruff (present) who would vote nay, with Senator Woodward (absent) who would vote yea.

Senator Hornsby sent up the following amendment:

Amend Section 6-A of S. S. B. for No. 1, by adding thereto the following:

"It is further provided that in the administration of this Act the Railroad Commission of Texas shall, at all times, take into consideration and protect the rights and interests of the purchasing and consuming public of crude oil and all of its products, such as gasoline and lubricating oil."

HORNSBY.

The amendment was read.

Senator Woodul sent up the following amendment to the amendment:

Amend the Hornsby amendment by adding the following at the end thereof:

"Provided however that if this Section 6-A be held for any reason unconstitutional the remaining Sections of this Bill shall, nevertheless, be valid; and it is declared that such remaining portions would have been included in this Act though this particular section had been omitted."

WOODUL.

Read and adopted.

The amendment as amended was adopted.

Senator Hornsby sent up the following amendment:

Amend that section of the bill providing for consideration of market demand as follows:

Provided that the Railroad Commission in taking into consideration market demand and economic waste is prohibited from considering price; and, shall fix the allowable and demand at the amount of the demand of all purchasers irrespective of price.

HORNSBY.

The amendment was read.

Senator Woodruff sent up the following substitute for the amendment:

Amend S. B. No. 1, amendment No. 1, by adding at the end of subsection (k) section 1, page 5, the following:

Provided, however, that the Railroad Commission in taking into consideration "market demand" and/or "economic waste" as herein defined is hereby expressly prohibited from considering the price; and shall fix the allowable production of oil in any pool within this State so as to prevent waste as herein defined, including market demand, regardless of price.

WOODRUFF.

The substitute amendment was read.

Senator Parr moved the previous question on the amendments and the bill. The motion failed to receive the proper seconding.

At 5 o'clock p. m., Senator Thomson moved that the call of the Senate be extended one hour. The motion prevailed by the following vote:

Yeas—15.

Beck.
Berkeley.
Cousins.
Gainer.
Holbrook.
Hornsby.
Neal.
Oneal.

Parr.
Pollard.
Rawlings.
Small.
Thomason.
Williamson.
Woodul.

Nays—10.

Greer.
Hopkins.
Moore.
Parrish.
Patton.

Poage.
Purl.
Russek.
Stevenson.
Woodruff.

Absent.

Cunningham.

Hardin.

Absent—Excused.

DeBerry.
Martin.

Woodward.

The substitute amendment was lost by the following vote:

Yeas—4.

Berkeley.
Greer.

Poage.
Purl.

Nays—19.

Beck.	Oneal.
Cousins.	Parrish.
Cunningham.	Patton.
Gainer.	Pollard.
Hardin.	Rawlings.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stevenson.
Moore.	Williamson.
Neal.	

Absent.

Parr.	Thomason.
-------	-----------

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Woodul (present) who would vote nay, with Senator DeBerry (absent) who would vote yea.

Senator Holbrook moved to table the amendment. The motion prevailed by the following vote:

Yeas—13.

Beck.	Patton.
Gainer.	Pollard.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Neal.	Williamson.
Oneal.	

Nays—9.

Berkeley.	Parrish.
Cousins.	Poage.
Greer.	Purl.
Hornsby.	Rawlings.
Moore.	

Present—Not Voting.

Cunningham.

Absent.

Parr.	Thomason.
-------	-----------

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote nay, with Senator Woodward (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator DeBerry (absent) who would vote nay.

Senator Moore sent up the following amendment:

Amend the substitute for S. B. No. 1, by adding a new paragraph to Section 8 as follows:

The Commission shall not have power to restrict or reduce the output of any oil well or wells if and when the owner or owners present evidence of a bonafide contract or contracts of record to the Commission, as evidence that oil in excess of the allowable authorized by the Commission can be sold under such bonafide contract or contracts, irrespective of price; and, provided, such excess production does not constitute physical waste.

MOORE,
BERKELEY,
PARRISH,
HORNSBY,
POAGE,
WOODRUFF,
GREER.

The amendment was read.

Senator Woodruff moved the previous question on the pending amendments and the bill. The motion prevailed by the following vote:

Yeas—13.

Beck.	Pollard.
Berkeley.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Neal.	Thomason.
Oneal.	Woodruff.
Parr.	

Nays—12.

Cousins.	Moore.
Cunningham.	Parrish.
Gainer.	Poage.
Greer.	Purl.
Hopkins.	Rawlings.
Hornsby.	Williamson.

Absent.

Patton.

Absent—Excused.

Martin.

Woodward.

(Pair Recorded.)

Senator Woodul (present) who would vote yea, with Senator DeBerry (absent) who would vote nay.

The amendment to the substitute was lost by the following vote:

Yeas—6.

Berkeley.	Parrish.
Greer.	Purl.
Moore.	Rawlings.

Nays—17.

Beck.	Parr.
Cousins.	Patton.
Cunningham.	Pollard.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Neal.	Williamson.
Oneal.	

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Poage (present) who would vote yea, with Senator Gainer (absent) who would vote nay.

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Woodul (present) who would vote nay, with Senator DeBerry (absent) who would vote yea.

Senator Pollard received unanimous consent for Senator Poage to send up the following amendments left with him by Senator DeBerry who was called away this afternoon on account of death in the family:

Amend substitute to S. B. No. 1, by striking out (c) under Sec. 1, and substituting in lieu thereof the following:

"Underground waste caused by the premature intrusion of water into producing well or wells or into wells producing from the same stratum, resulting from improper drilling or producing methods by the owner of such well or wells."

DeBERRY.

Read and lost by the following vote:

Yeas—4.

Berkeley.	Moore.
Greer.	Purl.

Nays—19.

Beck.	Hardin.
Cousins.	Holbrook.
Cunningham.	Hopkins.

Hornsby.
Neal.
Oneal.
Parr.
Parrish.
Patton.
Pollard.

Rawlings.
Russek.
Small.
Stevenson.
Thomason.
Williamson.

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Poage (present) who would vote yea, with Senator Gainer (absent) who would vote nay.

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Woodul (present) who would vote nay, with Senator DeBerry (absent) who would vote yea.

Amend substitute for S. B. No. 1, by striking out (k) under Section 1 and hereafter have it read as follows:

The production of crude petroleum oil in excess of transportation facilities or demand. The Commission is authorized to determine when such excess production exists or is imminent, and to ascertain the demand.

DeBERRY.

Read and lost by the following vote:

Yeas—6.

Berkeley.	Parrish.
Greer.	Poage.
Moore.	Purl.

Nays—19.

Beck.	Parr.
Cousins.	Patton.
Cunningham.	Pollard.
Gainer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Neal.	Williamson.
Oneal.	

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Woodul (present) who would vote nay, with Senator DeBerry (absent) who would vote yea.

The substitute as amended was adopted by the following vote:

Yeas—17.

Beck.	Patton.
Berkeley.	Pollard.
Cunningham.	Rawlings.
Gainer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Neal.	Thomason.
Oneal.	Williamson.
Parr.	

Nays—8.

Cousins.	Moore.
Greer.	Parrish.
Hopkins.	Poage.
Hornsby.	Purl.

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote nay, with Senator Woodward (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator DeBerry (absent) who would vote nay.

The bill as substituted was passed to engrossment by the following vote:

Yeas—17.

Beck.	Patton.
Berkeley.	Pollard.
Cunningham.	Rawlings.
Gainer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Neal.	Thomason.
Oneal.	Williamson.
Parr.	

Nays—8.

Cousins.	Moore.
Greer.	Parrish.
Hopkins.	Poage.
Hornsby.	Purl.

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote nay, with Senator Woodward (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator DeBerry (absent) who would vote nay.

Senator Pollard moved to suspend the constitutional rule requiring bills to be read on three several days and to put S. B. No. 1 on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25.

Beck.	Patton.
Berkeley.	Poage.
Cousins.	Pollard.
Cunningham.	Purl.
Gainer.	Rawlings.
Greer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hopkins.	Thomason.
Hornsby.	Williamson.
Neal.	Woodruff.
Oneal.	Woodul.
Parr.	

Nays—2.

Moore.	Parrish.
--------	----------

Absent—Excused.

DeBerry.	Woodward.
Martin.	

Read third time.

Senator Small received unanimous consent to amend the caption to conform to the body of the bill.

The bill was finally passed by the following vote:

Yeas—19.

Beck.	Patton.
Berkeley.	Pollard.
Cousins.	Rawlings.
Cunningham.	Russek.
Gainer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Neal.	Williamson.
Oneal.	Woodul.
Parr.	

Nays—8.

DeBerry.	Moore.
Greer.	Parrish.
Hopkins.	Poage.
Hornsby.	Purl.

Absent—Excused.

Martin.

(Pairs Recorded.)

Senator Woodruff (present) who would vote yea, with Senator Woodward (absent) who would vote nay.

Senator Poage received unanimous consent for Senator DeBerry to be recorded as voting "nay."

Senator Pollard moved to reconsider the vote by which the bill was finally passed. The motion prevailed by the following vote:

Yeas—21.

Beck.	Parr.
Berkeley.	Patton.
Cousins.	Pollard.
Cunningham.	Rawlings.
Gainer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hopkins.	Thomason.
Hornsby.	Williamson.
Neal.	Woodul.
Oneal.	

Nays—6.

Greer.	Poage.
Moore.	Purl.
Parrish.	Woodruff.

Absent—Excused.

DeBerry.	Woodward.
Martin.	

The bill was finally passed by the following vote:

Yeas—23.

Beck.	Parrish.
Berkeley.	Patton.
Cousins.	Pollard.
Cunningham.	Rawlings.
Gainer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hopkins.	Thomason.
Hornsby.	Williamson.
Neal.	Woodruff.
Oneal.	Woodul.
Parr.	

Nays—5.

DeBerry.	Poage.
Greer.	Purl.
Moore.	

Absent—Excused.

Martin.	Woodward.
---------	-----------

Reasons for Vote.

Mr. President and Members of the Senate:

I can assign many reasons, but my chief opposition to this bill is in keeping with the reasons announced by the gallant statesman from the Panhandle of Texas, Senator Clint C. Small of Amarillo, who on November 11, 1931, in an address before the Rotary Club of Dallas, Texas, as reported in the Dallas Times-Herald of November 11, 1931, said in part:

(I submit the accompanying statement to be printed in the Journal as part of my reasons for my voting.)

Respectfully,

JOE M. MOORE,
State Senator.

It is upon men of the type of the Rotarians of this country that the people of the United States must depend to lead them back to, and preserve for them, those things which have made America great, and for which she battled during the World War. State Senator Clint Small of Amarillo told the Dallas Rotary Club at its luncheon at the Adolphus Hotel Wednesday.

Senator Small was the principal speaker before the Club at its Armistice Day luncheon. He came as the guest of Marshall R. Diggs of Dallas, who was program chairman of the day and who introduced the Senator.

Suiting his theme to Armistice Day and the World War, Senator Smalls' speech was a summary of the major points for which America waged that conflict, and of the fashion in which the victory has been preserved.

Efforts in Vain?

It was his opinion that few, if any, of the reasons why America fought are being carried out today, and that unless certain growing tendencies in the national life are checked, and a return to the principles upon which the Government was founded is effected, this country's participation in the conflict will have been in vain.

Senator Small was critical of the tendency of the governments, state and federal, to interfere in private business, the federal farm board's efforts at agricultural price stabili-

zation and the effort of Texas and other southern states to aid cotton and oil through legislation especially calling forth his ire.

"When we went into the World War in 1917, President Wilson stressed the fact that we were fighting, among other things, to make the world safe for democracy, to make armament unnecessary, and to secure the rights of small nations," said Senator Small. "Today, thirteen years after the war ended, we find a condition throughout the world which makes it appear as though, although we won the immediate victory, we have failed in all of these things."

Democracy on Trial.

"Russia and Italy, the two nations whose governments are the antitheses of democracy, whose principles are farthest away from its ideals, are well established. In fact, they are the two nations which seems to be getting along better than any of the others in existence today.

"America cannot be made to realize too strongly the conflict with democracy and its ideals which these two nations present."

The Senator then pointed out that as regards to lack of necessity for armaments, the armaments of the world are greater today than ever before. The rights of small nations, he said, are as precarious today as ever they have been for years past.

With regard to the American attitude toward Russia, Senator Small said, "We criticize Russia and its form of government. Yet we are unconsciously drifting closer to the Russian ideal in our own country every day.

Following Central Idea.

"We are following the Russian practice of substituting government control and aid for private initiative to an alarming degree.

"An outstanding example of this substitution is our federal farm board, a body that has attempted to put the government in agriculture, which would control the planting and the price of cotton and wheat, and attempt to do these things which the farmer should do for himself.

"Here in Texas our state government now tells the farmer how much cotton he can produce and the oil

man the amount of oil he can take from his wells.

"So long as we do these things in our state and federal governments we can criticize Russia only with poor grace.

"I call upon the Rotarians of this country, as typical of the intelligent, thoughtful men which are its leaders, to support those ideals which are the fundamental basis of our constitution, and which are in direct opposition to this governmental interference in private business."

Reasons for Vote.

Mr. President:

I change my vote from nay to yea on the final passage of S. B. No. 1, for the reason that if there is any merit in the measure it should go into effect immediately and not fail of the necessary two-thirds to make the bill effective from its passage as an emergency. I in no way abate my objection to the bill, nor attach my approval to it because of my vote.

WOODRUFF.

Statement Relative to S. B. No. 1.

"I am opposed to the passage of any oil and gas proration measure which permits the Railroad Commission to take into consideration economic waste or market demand as being fundamentally wrong, class legislation, and seriously against the common masses. I do not believe that the same can be justified on the grounds of immediate necessity or as a matter of expediency; and if said measure is passed, I am of the opinion the people will be called on within no greater time than a year to pay for the expense of another legislature called to repeal the same. We cannot leave the fundamental policies of our government without making serious and expensive mistakes."

MARTIN.

Reasons for Vote.

Believing that this S. B. No. 1, in respect to the principles of governmental policy involved, is one calculated in the future to become a precedent by virtue of which dangerous conditions may be brought about in the preservation of our present democratic system of gov-

ernment, I have consistently cast my vote in opposition thereto as the records will disclose, both on engrossment and on final passage.

The right of ownership of property, the privilege of private initiative and individual effort are not merely theoretical but practical and fundamental rights and privileges which no legislative body should ever impair or unduly restrict. This bill in practice I fear will so violate the principles of government designed to protect these rights and privileges as to lead our people in the future into unknown paths.

I have, therefore, so expressed my opposition to this measure; but realizing that it has already received a sufficient majority to finally pass it and appreciating the bona fides of those who urge its passage, I yield my view to the extent of allowing it to be enacted with the constitutionally requisite two thirds vote placing it in im-

mediate effect. I now, therefore, vote "yea" not grudgingly, but with a deep seated fear for the future of our people.

HOPKINS.

Adjournment.

On motion of Senator Rawlings, the Senate, at 6:57 o'clock p. m., adjourned until Saturday morning at 10 o'clock.

APPENDIX.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas Nov. 10, 1932.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills have had S. B. No. 2, carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

In Memory
of
Mrs. M. W. DeBerry

SENATE SIMPLE RESOLUTION NO. 4.

Senator Poage sent up the following resolution:

WHEREAS, Yesterday evening, November 9, 1932, 7:30, at San Antonio, Texas, Mrs. M. W. DeBerry, the wife of Dr. M. W. DeBerry, was called to her reward; and

WHEREAS, Her husband is the brother of our loved and honored colleague, Senator Tom DeBerry and;

WHEREAS, The death of Mrs. DeBerry left a group of loving friends and relatives:

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of Texas that we extend our sincere sympathy to the bereaved members of Mrs. DeBerry's family and extend our condolence in this their hour of grief.

POAGE.
BECK.
BERKELEY.
COUSINS.
CUNNINGHAM.
GAINER.
GREER.
HARDIN.
HOLBROOK.
HOPKINS.
HORNSBY.

MARTIN.
MOORE.
NEAL.
ONEAL.
PARR.
PARRISH.
PATTON.
POLLARD.
PURL.
RAWLINGS.
RUSSEK.

SMALL.
STEVENSON.
THOMASON.
WILLIAMSON.
WOODRUFF.
WOODUL.
WOODWARD.
LIEUT. GOV. EDGAR
E. WITT.

Read and adopted unanimously.